

Application No.: 10/804,958
Submission dated: March 29, 2007
Reply to Office Action of November 3, 2006

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REMARKS/ARGUMENTS

This submission is responsive to the Final Office Action dated November 3, 2006. Applicants would like to thank the Examiner for a timely and thorough review of the above-referenced patent application. Claims 1-4, 7-12, 17-21, 23, 24, 28, 29, and 31 were previously pending in the application, and Claims 1-4, 7-12, 17-21, 23, 24, 28, 29, and 31 are currently rejected. Applicants have amended Claims 1, 17, and 28 to more clearly define the claimed subject matter. It is respectfully submitted that in light of the claim amendments and the remarks below, all of the claims are now in condition for allowance.

Rejections Under 35 U.S.C. § 102(b) as Being Anticipated by the O'Neill '664 Patent

Claims 1-4, 8, 11-12, 17-21, and 28-29 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,218,664 to O'Neill et al. ("the O'Neill '664 patent"). The Office Action alleges that the O'Neill '664 patent discloses every element and limitation found in the claims. Applicants respectfully traverse these rejections to the extent that the rejections would apply to the claims as amended.

The O'Neill '664 patent discloses a splice closure with a container 10, an end cap 12, and a silicone rubber vessel 21 or pail 21 between the end cap 12 and the splice tray 24 within the container. See column 2, lines 31-45 of the O'Neill '664 patent. The vessel/pail 21 includes a flared resilient brim 22 that contacts the interior surface of the container 10 to form a seal. However, the O'Neill '664 patent further discloses that in actual use, the "vessel 21 will be filled up to surface 25 with an encapsulant which is a gel preventing access of water to splice tray 24." See column 2, lines 52-57 of the O'Neill '664 patent. Therefore, the O'Neill '664 patent discloses sealing the splice tray area with a vessel full of gel encapsulant.

Applicants have amended independent Claims 1 and 28 to recite that the second compartment is substantially free of a gel encapsulant material and have amended independent Claim 17 to recite the interior cavity is substantially free of a gel encapsulant material. Support for these amendments is provided by at least Figures 1, 2, 7, and 8 of the present application and is inherent to the description of the pedestals in the detailed description. Turning again to the O'Neill '664 patent, the patent fails to teach or suggest providing an interior cavity and/or a second

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compartment (area of the vessel 21 opposite the splice tray 24) that is substantially free of a gel encapsulant material. Moreover, the O'Neill '664 patent explicitly discloses the use of such gel encapsulant material in order to prevent access of water to the splice tray 24. Therefore, for at least this reason, Applicants respectfully submit that the O'Neill '664 patent does not anticipate the independent Claims 1, 17, and 28 as amended, nor the claims depending therefrom. Accordingly, Applicants respectfully request that the rejections of Claims 1-4, 8, 11-12, 17-21, and 28-29 be withdrawn.

In addition, the Office Action on page 3 states, relative to Claims 8, 11-12, and 18-19, that the circular areas of the O'Neill '664 patent are "joined together to form a plate sealing the first compartment relative to the second compartment." However, Applicants respectfully assert that the circular areas 26 are actually areas of "reduced thickness" in the bottom of the vessel 21, such that the areas can be breached when passing the light waveguide buffer tubes 23 through the vessel to the splice tray 24. See column 2, lines 45-49 of the O'Neill '664 patent. Therefore, the circular areas 26 of the vessel 21 of the O'Neill '664 patent do not comprise a plate. For at least this additional reason, Applicants respectfully submit that Claims 8, 11-12, and 18-19 are further not anticipated by the O'Neill '664 patent.

Rejections Under 35 U.S.C. § 103(a) as Being Unpatentable Over the O'Neill '664 Patent in view of the Saito '042 patent

Claims 7, 9-10, 23-24, and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the O'Neill '664 patent in light of U.S. Patent No. 5,649,042 to Saito ("the Saito '042 patent"). The Office Action alleges that the O'Neill '664 patent, in view of the Saito '042 patent, discloses every element and limitation found in the claims. To the extent that these rejections would be applied against the claims as amended, Applicants respectfully traverse.

As discussed above, the O'Neill '664 patent fails to teach or suggest providing an interior cavity and/or a second compartment that is substantially free of a gel encapsulant material. In addition, the Saito '042 patent is directed to loose tube cables and thus also fail to teach or suggest providing an interior cavity and/or a second compartment of a pedestal that is substantially free of a gel encapsulant material. Therefore, the O'Neill '664 patent and the Saito '042 patent, either alone or in combination, fail to teach or suggest providing an interior cavity and/or a second compartment

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that is substantially free of a gel encapsulant material, as recited in the independent claims from which Claims 7, 9-10, 23-24, and 31 depend. For at least this reason, Applicants respectfully submit that Claims 7, 9-10, 23-24, and 31 are not unpatentable. Accordingly, Applicants respectfully request that the rejections of Claims 7, 9-10, 23-24, and 31 be withdrawn.

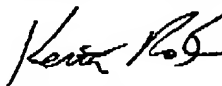
Conclusion

In view of the foregoing remarks, Applicants respectfully submit that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Chiem is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. More specifically, Applicant has included with this amendment a request for a two-month extension of time. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 03-3325.

Respectfully submitted,

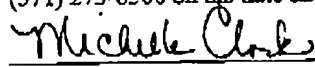


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I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office Fax No. (571) 273-8300 on the date shown below.



Michelle Clark

3/29/2007

Date